

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

Global Cooling, Inc.,	:	
Plaintiff	:	Civil Action 2:11-cv-01083
v.	:	Judge Smith
E.C. Sagittar B.V., <i>et al.</i> ,	:	Magistrate Judge Abel
Defendants	:	
	:	

**Discovery Dispute Conference Order**

On November 16, 2012, counsel for the parties participated in a telephone discovery dispute conference with the Magistrate Judge.

Defendants served a Rule 45 subpoena on plaintiff CGI's patent counsel, Frank Foster, seeking documents related to patents and other intellectual property. The return date was August 17. No production was made, but there were discussions between defendants' counsel and Mr. Foster as well as CGI's counsel in this lawsuit. Defendants agreed to narrow the time frame of their request for documents to documents created on or about September 1, 2008 and thereafter related to the intellectual property at issue in this lawsuit. (CGI made a patent application that disclosed some or all of the trade secrets alleged in this lawsuit.) There are less than two bankers' boxes of documents. Mr. Foster has represented that all of the documents, except those made public with the patent application, are either subject to the attorney-client privilege or have work product protection. While those documents could be obtained from the PTO, there is sometimes a

discrepancy between the public documents at the PTO and those in the patent attorney's file. Moreover, there may be documents in the patent lawyer's file that the client intended to make public or that were communicated to third parties. Defendants offered to have a copy service copy the documents and deliver them to CGI's counsel for an attorney-client privilege review. No objections to the subpoena based on relevance were ever made.

It is ORDERED that CGI's counsel conduct a privilege review, produce the non-privileged documents at least 5 work days before depositions begin, and prepare a privilege log for documents withheld.

s/Mark R. Abel  
United States Magistrate Judge